

1 | important distinction. All right.

2 | BY MS. SCHMELTZER:

3 | Q So you were looking -- were you looking for  
4 | programming that NBC had aired that might have dealt with  
5 | local Baltimore issues?

6 | A I was looking for programming that had aired on the  
7 | NBC television network and, therefore, had aired on WMAR-TV  
8 | since we are the NBC affiliate in the Baltimore area that was  
9 | responsive to issues that we had ascertained as being  
10 | important to the community. In order to do that I had to ask  
11 | NBC to pull out of their records information that they had  
12 | with respect to these particular issues.

13 | Q So, for instance, you wanted NBC to see what  
14 | programming they had aired that was responsive to the  
15 | redistricting issue in Maryland?

16 | A If they had, in fact, aired any and I wanted to see  
17 | if -- yes.

18 | Q If you would look at the fourth page of this  
19 | exhibit, it appears to be a transmittal form from NBC dated  
20 | August 12, 1992 from Nancy Cole.

21 | A Yes.

22 | Q Do you recall having received this from Ms. Cole --

23 | A Yes, I do.

24 | Q -- on August 12, 1992?

25 | A Yes, I do.

1 Q And she says, "Please note on last page it states  
2 114 items translation in the time period you requested, June 1  
3 through September 30, 1991. There were 114 spots which aired  
4 on NBC network news programs regarding education." Was she  
5 referring there to programs or to parts of programs? Do you  
6 know?

7 A When they use the term program they are referring to  
8 what could be a news story or it could be a whole program.

9 Q Well, I guess my question is what did she mean by  
10 the term spot?

11 A 114 spots?

12 Q Yes.

13 A That would be stories.

14 Q Okay. Does that mean 114 spots regarding education  
15 that covered Maryland?

16 A That was regarding the subject of education.

17 Q I see. Okay. And then did she send you the two  
18 pages that are attached?

19 A Yes.

20 Q Was that for the purpose of showing you the kind of  
21 information that NBC had?

22 A Yes. Before she pulled up all of this information  
23 which was rather extensive she wanted to make sure that she  
24 had the right -- that she was providing us with the right  
25 information so she sent me these two pages as an example of

1 | what their archive system looked like.

2 |       Q     Now, after you received the fax from her did you  
3 | write her back?

4 |       A     I spoke to her on the telephone.

5 |       Q     What did you tell her over the phone?

6 |       A     We talked on the telephone -- if you go to the next  
7 | page you can see my handwritten note which was my notes to  
8 | myself to understand their key system. Where it says T =  
9 | Today Show, Sunrise, Sunday Today, N = Nightly, M = Magazine  
10 | and so forth.

11 |       Q     What did you mean by M = magazine?

12 |       A     It says underneath there Closer Look, Dateline or  
13 | Real Life. That was their coding system so that they would  
14 | know whether a spot aired in Nightly News or in the Today Show  
15 | or in Dateline, etc.

16 |       Q     And what exactly did you tell Ms. Cole that you  
17 | wanted?

18 |       A     After reviewing the documents and discussing what I  
19 | had received with counsel, I told her these were appropriate  
20 | and I asked her to send me a printout of all of the documents  
21 | she had that related to the issues that were in the original  
22 | memo that I sent to her.

23 |       Q     What did you do with the documents from NBC when you  
24 | received them?

25 |       A     I made a copy of them and I gave them to counsel.

1 Q Did you use them in preparing any of the attachments  
2 to your testimony?

3 A Yes. They were used in preparing the -- I don't  
4 remember the attachment number. I'm sorry.

5 Q Was that Attachment J?

6 JUDGE SIPPEL: Well, let's look at it. Pull it out  
7 and look at it to be sure.

8 WITNESS: Yes, it was Attachment J.

9 BY MS. SCHMELTZER:

10 Q Were they used in connection with anything else?

11 A As far as the exhibits are concerned?

12 Q Right.

13 A No.

14 JUDGE SIPPEL: We're getting, we're going close to  
15 12:00 noon and it looks like you're, you're shifting to  
16 another subject matter.

17 MS. SCHMELTZER: Well, I'm still on this subject  
18 matter, but we can break now and then I'll pick it up, and I  
19 don't have -- I mean, I think we should -- we can finish this  
20 witness today.

21 JUDGE SIPPEL: All right. Well, let's, let's go off  
22 the record for a minute and then we'll break for lunch. We'll  
23 come back at 1:15. We got about a minute to go on that clock.  
24 We're off the record.

25 (Whereupon, lunch break from 12:00 p.m. until 1:15 p.m.)

## A F T E R N O O N   S E S S I O N

JUDGE SIPPEL: We're on the record. I have nothing of a preliminary nature. You can go right -- proceed right ahead, Ms. Schmeltzer.

MS. SCHMELTZER: Okay.

MS. SCHMELTZER: Ms. Barr, right before lunch we were talking about the materials that were received from NBC and I'd now like to have identified for the record two separate exhibits. I'm going to go through them both. The first is a document that runs from SH-007822. The first -- let me just say that the first is excerpts from an NBC release schedule 1990/1991 season that was turned over to us in, in discovery. These are excerpts from different NBC shows such as Blossom, Law and Order, Cosby Show, A Different World, etc. And I'm going to -- I'd like to have that marked for identification as Four Jacks Exhibit 20.

JUDGE SIPPEL: All right. The reporter will mark this document as Four Jacks 20 for identification. This will be entitled Blossom Release Schedule 1990/91 season and etc. There's much more attached to it.

(The document that was referred to as Four Jacks Exhibit No. 20 was marked for identification.)

MS. SCHMELTZER: The second document is a five page document on the topic -- it's labeled, "25 August 1992, Sort,

1 S-O-R-T, Media," and then on the top of the first page in  
2 handwriting are the words, "Supreme Court." On the top of the  
3 second page is handwriting that says, "Crime and Criminal  
4 Justice." On the top of the third page is handwriting that  
5 says, "Literacy." On the top of the fourth page is  
6 handwriting that says, "Homeless," and on top of the fifth  
7 page is handwriting that says, "Education." These are  
8 representative copies of a group of documents that we received  
9 in discovery. The actual stack for each of these categories  
10 was far longer, but I'm just putting this in as representative  
11 copies, and I'm asking that that be marked for identification  
12 as Four Jacks Exhibit 21.

13 JUDGE SIPPEL: The reporter will so mark that  
14 document as Four Jacks 21 for identification.

15 (The document that was referred to as  
16 Four Jacks Exhibit No. 21 was marked  
17 for identification.)

18 BY MS. SCHMELTZER:

19 Q Ms. Barr, and I'd like to ask you if you have seen  
20 Four Jacks Exhibit 20 before?

21 A Yes, I have.

22 Q Is that composed of information that you received  
23 from NBC in 1991?

24 A This is --

25 Q I'm sorry. 1992?

1           A     2 -- 1992. I -- yes, this is some of what I  
2 received from them.

3           Q     And if you would look at Four Jacks Exhibit 21, have  
4 you seen that material before?

5           A     Yes, I have.

6           Q     And are those representative copies of documents  
7 that you received from NBC in 1992?

8           MR. HOWARD: Objection, Your Honor. How does she  
9 know if they're representative? Conclusion of the witness.  
10 We don't know -- representative of what?

11           JUDGE SIPPEL: Well, I'll sustain the objection.  
12 Can you lay more of a foundation for this, please?

13           BY MS. SCHMELTZER:

14           Q     Does this information relate to the category of  
15 documents that you asked NBC for, the Four Jacks Exhibit 21?

16           A     Yes, it does.

17           Q     Was this material sent to you from NBC?

18           A     Yes.

19           Q     The handwriting on the Four Jacks Exhibit 21, do you  
20 know -- is that your handwriting or is that NBC's handwriting?

21           A     That's -- it's not my handwriting.

22           Q     Do you -- would you know whose handwriting that is?

23           A     I don't know. It's not my handwriting.

24           JUDGE SIPPEL: Do you know if it's -- is this the  
25 handwriting of anybody in, in your office?

1                   WITNESS: It's not. As I recall, it is -- it was on  
2 a -- like a yellow piece of -- what do you call that sticky  
3 paper? And it was done by someone at NBC.

4                   BY MS. SCHMELTZER:

5           Q       It was a yellow piece of sticky paper with the  
6 handwriting on the document when you received it from NBC?

7           A       Yes, a Post-It Note. That's what --

8           Q       Oh, a Post-It Note. And this is a Xerox of that  
9 copy?

10          A       Yes.

11          Q       And if you would look at the handwriting that is on  
12 Four Jacks Exhibit 20, do you recognize that handwriting?

13          A       Yes, I do.

14          Q       Is that your handwriting?

15          A       Yes, it is.

16                   MS. SCHMELTZER: Your Honor --

17                  MR. HOWARD: I'd like to object to the whole line of  
18 questioning on Four Jacks Exhibit 20. None of the materials  
19 that's in this exhibit was used in Scripps Howard's direct  
20 case testimony or exhibits and there's no relevance to this  
21 procedure.

22                  JUDGE SIPPEL: Well, let's see how she starts the  
23 question.

24                  MS. SCHMELTZER: I haven't even offered the -- I  
25 haven't offered it yet. I mean, I think what this -- you're



1 getting to an objection to receive. I haven't offered it yet.

2 MR. HOWARD: I would ask that we formulate the  
3 objection. Could you ask counsel to explain how this is  
4 relevant, how this is going to lead to, to relevant testimony?

5 JUDGE SIPPEL: Well, I'm going to see what she does  
6 with cross-examination. We'll find out soon enough.

7 MS. SCHMELTZER: Do you want me to continue cross-  
8 examining before I ask that this be received?

9 JUDGE SIPPEL: Yes. I'm not -- I want you to lay  
10 some foundation with some voir dire questions or at least some  
11 preliminary questions and let's find out where we're going.

12 MS. SCHMELTZER: Okay.

13 BY MS. SCHMELTZER:

14 Q Ms. Barr, for what purpose did you obtain the  
15 release schedule for the 1990/1991 season?

16 A I was asked by counsel to get information from NBC  
17 with respect to their programming and their news that they  
18 aired in that four month period of 1991.

19 Q And this is the --

20 A And this is the resulting information that came from  
21 the NBC archives.

22 Q Okay. And when you say programming, did you ask  
23 them for information concerning the programs that aired on --  
24 during their prime time programming?

25 A What I did was I asked for both news and non-news

1 programming and, because their archive system is set up in two  
2 different places in the country, one handling all news related  
3 programming, the other handling non-news or entertainment  
4 programming, it came from two separate sources.

5 Q Looking at the first page of Four Jacks Exhibit 20  
6 you'll see about the fourth line down, and this would be  
7 Blossom, the June 10, 1991 episode. It says, "Sex Lives and  
8 Teenagers," and there's some handwriting beside that which  
9 says, "Youth Concerns."

10 A That's correct.

11 Q Your handwriting?

12 A That's correct.

13 Q Okay. Why did you put the category Youth Concerns  
14 beside that episode?

15 MR. HOWARD: Your Honor, I object. Is this still  
16 voir dire or is this --

17 MS. SCHMELTZER: Yes, it is.

18 MR. HOWARD: -- cross-examination on the prior  
19 exhibit?

20 JUDGE SIPPEL: Well, I'm assuming that we're going  
21 to reach a point where she's going to have to tie in the  
22 questions and answers to relevancy and I'm giving her a little  
23 bit of leeway here, cross -- on the -- go ahead, Ms.  
24 Schmeltzer.

25 BY MS. SCHMELTZER:

1 Q Why did you put Youth Concerns beside that episode?

2 A As I was preparing these documents in request of  
3 counsel I went through the programming that's listed here. I  
4 cross-referenced it against -- if you look, for example, at  
5 page 07826 which is a more detailed explanation of what each  
6 program was actually about, I made a judgment call as to the  
7 program's relevance with respect to our ascertained issues and  
8 then I wrote the appropriate ascertained issue next to the  
9 program on -- in the beginning pages. So, in other words, I  
10 used, I used the descriptions that are at the back. There's  
11 only one page of examples here --

12 Q Right.

13 A -- but I used the descriptions at the back to  
14 determine whether or not the program dealt with an issue that  
15 had been ascertained to be important to our viewing area. And  
16 if I believed that it was, then I wrote what that issue was  
17 next to it as a way of referencing for myself.

18 Q Okay. And was that the procedure that you went  
19 through with each of these episodes where you wrote education  
20 or homelessness.

21 A That's correct.

22 Q You reviewed a program synopsis and then determined  
23 that it meant -- met the local issue of education or  
24 homelessness?

25 MR. HOWARD: Your Honor, that's not what she

1 testified, that it met that need.

2 JUDGE SIPPEL: Well, she's asking the witness this  
3 question. This is cross-examination. The witness is not  
4 bound by her representation. Let her finish the question.  
5 And can you rephrase that or can you restate that question?

6 MS. SCHMELTZER: Yes, I can restate that.

7 BY MS. SCHMELTZER:

8 Q Did you review a program synopsis related to this  
9 release schedule to determine whether the specific episode  
10 dealt with homelessness or education?

11 A Yes, I did.

12 Q And what was the purpose of putting down the various  
13 categories, homelessness, education, youth concerns, on this  
14 list?

15 A It was a way for, for me to be able to identify  
16 those programs that we had carried by the NBC television  
17 network that had dealt with issues that we had ascertained  
18 locally as being significant to the community.

19 JUDGE SIPPEL: Now, you want to make a proffer of  
20 relevance here, please?

21 MS. SCHMELTZER: Yeah. Yes, Your Honor. The  
22 proffer of relevance would be that this was -- in 1992 the  
23 licensee contacted NBC to determine what programming had been  
24 aired that was relevant to the local issues purportedly  
25 ascertained in 1991.

1 JUDGE SIPPEL: But this is -- as I hear her  
2 testimony, this is what we know about this. I don't want to  
3 say we know about it from her written testimony, but we do  
4 know about this as far as the state of the record is now, so  
5 what this does is this just, this just defines the procedure,  
6 that is, this is what she reviewed to make her determination  
7 as to what was responsive. And we do have that conclusion in  
8 -- we have that in -- is that in Tab E or is it even -- it's  
9 another --

10 MR. HOWARD: Well, Your Honor, this material was not  
11 relied upon at all in any of Scripps Howard's testimony.

12 JUDGE SIPPEL: No, no. Well, I understand that, but  
13 it was relied upon by the witness. Was it relied upon you in  
14 terms of preparing or assisting in the preparation of these  
15 exhibits?

16 WITNESS: Not in these exhibits, no, Your Honor.

17 JUDGE SIPPEL: Not in these exhibits?

18 WITNESS: Not at all.

19 JUDGE SIPPEL: Then what was your purpose of going  
20 through this?

21 WITNESS: Initially when I talked with counsel about  
22 what they were looking for, we discussed the broad scope of  
23 what NBC aired and we looked at both news and non-news  
24 programming. After having gone through the non-news  
25 programming, we determined that this was not necessary to and

1 germane to the case. So while I went through it and did the  
2 work I -- we didn't use it.

3 JUDGE SIPPEL: All right. Now, if this wasn't used,  
4 then what relevance is it going to have, Mrs. Schmeltzer?

5 MS. SCHMELTZER: Well, let me turn -- I'd like to  
6 turn the witness' attention to --

7 MR. HOWARD: Could I ask that she answer your  
8 question before we go back to asking, asking the witness  
9 questions?

10 MS. SCHMELTZER: I do have a question because the  
11 witness said she, she did use the news information.

12 BY MS. SCHMELTZER:

13 Q You used the news --

14 A I used the news information.

15 Q Okay. Well, there is one page in here. It's SH-  
16 007905 and the date at the top says October 2, 1991. It says  
17 NBC News Special.

18 JUDGE SIPPEL: 7905?

19 MS. SCHMELTZER: 7905, that's correct.

20 WITNESS: What line are you looking at?

21 MS. SCHMELTZER: I'm looking at that whole page. It  
22 says NBC News Special.

23 JUDGE SIPPEL: At the top it says --

24 WITNESS: Yes, I see it. Okay. I see it.

25 BY MS. SCHMELTZER:

1 Q Do you see that page?

2 A Um-hum.

3 Q And, in fact, it goes over to another page, as well?

4 A Yes.

5 Q It appears to be the NBC News Special schedule all  
6 the way from October 21, 1990 to August 21, 1991. Is that  
7 correct?

8 A That's correct.

9 Q Now, did you use the information that's on this page  
10 at all in compiling any part of your testimony or attachments?

11 A As I recall, this information is, is redundant  
12 information that's in the other document.

13 JUDGE SIPPEL: Well, can you tell me what the other  
14 -- tell us what the other --

15 WITNESS: The other document is the NBC News, the  
16 one that's exemplified by the Supreme Courtship.

17 JUDGE SIPPEL: That would be Four Jacks 21 for  
18 identification.

19 WITNESS: Yes, No. 21. That's correct.

20 BY MS. SCHMELTZER:

21 Q Well, let me ask you about the June 29, 1991 episode  
22 of First Person with Maria Shriver. You don't have any  
23 listing of a local Baltimore need beside that program, do you?

24 A No, I don't.

25 MR. HOWARD: Your Honor, I'll object to that line of

1 questioning as totally irrelevant if it wasn't used in this  
2 testimony.

3 JUDGE SIPPEL: I -- the -- there doesn't -- there's  
4 no purpose in going forward with this, this particular exhibit  
5 because the witness has testified that what is -- at least  
6 insofar as 7905 is concerned, that this is redundant of what's  
7 in 21 and this is the last thing you need is, is redundant  
8 exhibits.

9 MS. SCHMELTZER: Well, let me ask this.

10 JUDGE SIPPEL: Wait just a minute. She's, she's  
11 responding to it.

12 WITNESS: I think I can clear this up. Because NBC  
13 news and NBC entertainment come out of two separate divisions,  
14 one in Los Angeles, one in New York, when I asked NBC  
15 entertainment for their listing what they sent me was a  
16 listing of all their entertainment programs which includes all  
17 of their prime time programs, whether they be logged as news  
18 or entertainment. So these two pages here reference programs  
19 that aired in the prime time arena, if you look at the time  
20 periods in the last column, and these were repeated in this  
21 other document, Document No. 21, under specific issues.

22 JUDGE SIPPEL: Where does Document 21 come from?

23 WITNESS: Document 21 came from NBC news archives in  
24 New York.

25 JUDGE SIPPEL: From New York?



1 WITNESS: Document 20 -- is that 20?

2 JUDGE SIPPEL: It's 20 for identification.

3 WITNESS: Yeah, came from NBC entertainment archives  
4 in L. A.

5 MS. SCHMELTZER: Your Honor, in light of that  
6 testimony, we will not offer Four Jacks Exhibit 20 into  
7 evidence.

8 JUDGE SIPPEL: All right. We'll put that aside.

9 MS. SCHMELTZER: Now --

10 MR. HOWARD: I make a motion to strike all the  
11 testimony having to do with --

12 MS. SCHMELTZER: Well, I think the --

13 JUDGE SIPPEL: Wait, wait just a moment. I -- no.  
14 I understand. You'll get a chance, too but no, I'm not going  
15 to strike this testimony. I mean, it explains what we've been  
16 doing here and that's the long and short of it. Let's go.

17 (The document that was previously  
18 marked for identification as Four  
19 Jacks Exhibit No. 20 was withdrawn.)

20 BY MS. SCHMELTZER:

21 Q Referring you to Four Jacks Exhibit 21, Ms. Barr --

22 A Yes.

23 Q -- what was the purpose of requesting this  
24 information?

25 A As I said earlier, I had been asked by counsel to

1 gather information with respect to NBC news programming that  
2 had aired during the relevant period that was responsive to  
3 the issues that we had determined as being relevant to the --  
4 significant to the viewing area, our viewing area.

5 Q And this information was used in -- to produce some  
6 of the attachments to your testimony? Is that correct?

7 A It was used in the preparation of Attachment J.

8 MS. SCHMELTZER: Your Honor, I would move the  
9 receipt of Four Jacks Exhibit 21 into evidence.

10 MR. HOWARD: We would object on relevancy grounds.  
11 It's -- this is the underlying document. Attachment J is the  
12 summary document that includes the information that is  
13 relevant to this proceeding and I think this is just burdening  
14 of the record with additional material.

15 JUDGE SIPPEL: Well, I'll be you in just a minute.  
16 I want to see if I can get a further clarification and then  
17 you can comment, Mr. Zauner. What purposes do you -- without  
18 tipping your hand too, too much, what is it that you expect to  
19 elicit from this witness based on this, this -- there's going  
20 to be a lot of repetitive evidence here in any event?

21 MS. SCHMELTZER: I don't think this is repetitive.  
22 It's only five pages.

23 JUDGE SIPPEL: No, I understand, but what is it that  
24 you want to do with this witness and this document?

25 MS. SCHMELTZER: Well, the point is that, the point

1 is that it was NBC news in New York that was determining what  
2 was aired back in 1991 that was responsive to the local issues  
3 and that determination was not made until 1992.

4 JUDGE SIPPEL: Well, the programming came out of --  
5 if I'm following this, the programming comes out of New York  
6 via the network and it's put on. New York is not being asked  
7 in advance by anybody at Channel 2 in Baltimore, say hey,  
8 would you air some Baltimore-related programming tonight for  
9 us.

10 MS. SCHMELTZER: Right.

11 JUDGE SIPPEL: They just take what they get and, for  
12 whatever happenstance may happen, some or portions of it or  
13 segments of it will arguably be applicable to Baltimore.

14 MS. SCHMELTZER: Right.

15 JUDGE SIPPEL: Now, they've gone -- she's gone  
16 through that process and made exhibits, and I want to know  
17 from you why is it that you need to explore this, this  
18 underlying document with her at this time?

19 MS. SCHMELTZER: Simply for the purpose of  
20 establishing that it was NBC news that grouped these programs  
21 into these issues.

22 MR. HOWARD: Your Honor, the witness asked --  
23 Scripps Howard asked them -- for them to categorize their  
24 reports as their records reflect in accord with the -- exactly  
25 with the issues identified in Scripps Howard's issues programs

1 list contemporaneous with the license term. This is  
2 completely wrong-headed to suggest that there's some sort of  
3 ascertainment going on in 1992. The issues were identified,  
4 put in the public file, reported in 1991, and the whole line  
5 of inquiry is, is strange.

6 MS. SCHMELTZER: And the responsive programming is  
7 supposed to be done in 1991. In this instance, however,  
8 Scripps Howard was searching in 1992 to find out what was  
9 responsive and it was NBC that did the grouping.

10 JUDGE SIPPEL: But we know that. We know that.  
11 That has already been established in I don't know how many  
12 different ways and there was -- I can't put my hand on the  
13 exhibit, but there was something that looks very much like  
14 this that came in, I believe, with 19.

15 MS. SCHMELTZER: Well, yes, it was the attachment,  
16 right, to 19, but it doesn't have the category up at the top.

17 JUDGE SIPPEL: You mean where it says Supreme Court?

18 MS. SCHMELTZER: Right. Right.

19 JUDGE SIPPEL: And that's really, that's really what  
20 you're after?

21 MS. SCHMELTZER: That's what I'm after and these are  
22 -- as I said, these are representative of the documents that  
23 we received.

24 JUDGE SIPPEL: Well, I will -- she has already  
25 testified in your, in your voir dire, with my authorization

1 | your expanded voir dire, of the handwritten notations at least  
2 | in terms of the principle of the handwritten notations. We  
3 | haven't identified every single handwritten notation, but that  
4 | we can -- we could easily do and, and then move on and not  
5 | have to burden the record with this.

6 |           MS. SCHMELTZER: Right. Exactly.

7 |           JUDGE SIPPEL: Mr. Zauner?

8 |           MR. ZAUNER: Your Honor, the only thing that I was  
9 | going to say was, once again, it seems to me that, that this  
10 | exhibit is superfluous, that if it was being offered for the  
11 | purpose of showing that there was an error or there was some  
12 | significant difference between what was received from NBC and  
13 | what eventually found its way into Scripps Howard's exhibits,  
14 | then I would not object to it. But, otherwise, I don't see  
15 | any real purpose to receiving this into evidence. I think it  
16 | is very much like another ruling that we had on a similar  
17 | underlying document. I think that's all this really is  
18 | another underlying document which, to the extent that it's  
19 | really relevant, is duplicate of what's already in the  
20 | exhibits.

21 |           JUDGE SIPPEL: Well, I -- yeah, I agree --

22 |           MS. SCHMELTZER: Your Honor?

23 |           JUDGE SIPPEL: -- with that and I think this is  
24 | pretty well established. I'm sorry.

25 |           MS. SCHMELTZER: If I may? Attachment J is just a

1 list of programming and all it says at the top is Education  
2 and as you go on a few pages it has another category. It is  
3 not clear at all what Attachment J came from, how it was  
4 derived and, frankly, I think that these pages and the  
5 witness' testimony explain that. They explain the foundation  
6 for Attachment J.

7 JUDGE SIPPEL: But she's already -- she's testified  
8 to it and you can certainly ask her some clarification  
9 questions on J which is in the record, but I don't think -- I  
10 mean, I think Mr. Zauner has summed it right up. We're just,  
11 we're just piling on more of the same evidence and it's going  
12 to make it more difficult particularly for those who are  
13 concerned with proposed findings, and I just don't see that  
14 you've made a case for receiving it. Now, I do understand the  
15 theory that you're advancing and it's -- and I can -- I don't  
16 have any problem with your reading into the record or I'll  
17 read into the record or the witness can read into the record  
18 what it was that NBC made handwritten notes on. I know you're  
19 going to object to that, Mr. Howard, but I don't see where  
20 that would materially prejudice you. In fact, I don't see  
21 where it would prejudice you at all because we've already  
22 gotten some testimony on this.

23 MR. HOWAD: The objection we have is just one, that  
24 this is taking an awful lot of time to go over material that  
25 we've covered.

1 JUDGE SIPPEL: I hear you on that but, on the other  
2 hand, I am -- I understand that Ms. Schmeltzer wants to  
3 establish as much as she can with respect to NBC's input into  
4 this process, whether the significance of that input in terms  
5 of it being mechanical versus something else is something that  
6 we have to leave for later on. I'm going to ask the witness  
7 -- direct the witness. If you will take the -- these  
8 individual pages on Exhibit 21 that are marked for  
9 identification?

10 WITNESS: Um-hum.

11 JUDGE SIPPEL: Just read into the record what NBC  
12 wrote at the top of each page. The first page is what?  
13 Supreme Court?

14 WITNESS: Yes. Page 008223 is Supreme Court. Page  
15 009641 is Crime and Criminal Justice. Page 008752 is  
16 Literacy. Page 008754 is Homeless. Page 008813 is Education  
17 and p 008346 is Health.

18 JUDGE SIPPEL: All right. If there's a motion to  
19 receive this into evidence, the motion is denied for the  
20 reasons that we've stated earlier and we can move on to the  
21 next item.

22 (The document that was previously  
23 marked for identification as Four  
24 Jacks Exhibit No. 21 was rejected.)

25 MS. SCHMELTZER: Okay. Thank you.

1 BY MS. SCHMELTZER:

2 Q Now, if you'll turn to Attachment J, Ms. Barr, was  
3 that prepared based on the materials that you received from  
4 NBC?

5 A It was prepared in part on materials based upon NBC.

6 Q Was the network portion of it prepared with respect  
7 to -- based on the NBC documentation?

8 A Yes, it was.

9 Q And your counsel has previously indicated that, that  
10 certain of the items that are listed in Attachment J should be  
11 stricken. Are you familiar with that? Let me turn your  
12 attention to SH3-0793, and we were asked to strike the entry  
13 for September 20, 1991.

14 MR. HOWARD: Objection, Your Honor. When the matter  
15 was struck it explained the basis for it. It serves no  
16 purpose to go back over the, the material again.

17 JUDGE SIPPEL: If it was stricken? Yeah, why do you  
18 want to ask questions on this?

19 MS. SCHMELTZER: I just want to ask why it was  
20 stricken?

21 MR. HOWARD: That was explained when we made the  
22 motion -- when we struck --

23 MS. SCHMELTZER: Well, but I'm entitled to ask the  
24 witness. That is her testimony. This is her --

25 JUDGE SIPPEL: Oh, this is nothing -- this wasn't a



1 motion on part of you to strike?

2 MS. SCHMELTZER: No, no. Scripps Howard's counsel  
3 just announced, I believe at the admissions session, that this  
4 should be taken out, deleted.

5 JUDGE SIPPEL: Sure. I'll permit that cross-  
6 examination. Where are you?

7 MS. SCHMELTZER: I'm on SH3-0793.

8 JUDGE SIPPEL: Well, is that a tab that goes with  
9 that?

10 MS. SCHMELTZER: Attachment J.

11 JUDGE SIPPEL: Read me the number again.

12 MS. SCHMELTZER: SH3-0793.

13 JUDGE SIPPEL: All right. You may proceed. Ask the  
14 question.

15 MS. SCHMELTZER: Okay.

16 BY MS. SCHMELTZER:

17 Q I'm looking at the entry for September 20, 1991, the  
18 second entry from the top.

19 A Yes.

20 Q Can you tell me why that was deleted?

21 A I don't recall specifically.

22 Q If you'll look down to 9/24/91 which says,  
23 "University of Virginia officials and students discuss alcohol  
24 abuse," do you know why that was included?

25 A Because -- I need to go back to the beginning page